



**130-1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1.CR-1010-2020 (O&M)

Ram Singh (since deceased) through his LRs
....Petitioner

Versus

Prem Kumar (since deceased) through his LR
..Respondent

2.CR-2614-2023 (O&M)

Prem Kumar (since deceased) through his LR
....Petitioner

Versus

Ram Singh (since deceased) through his LR and others
..Respondent

Date of decision: 14.05.2024

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr.G.S.Brar, Advocate for the petitioner
in CR-1010-2020 and
for respondent in CR-2614-2023

Mr. Sandeep Jain, Advocate for respondent
in CR-1010-2020 and
for the petitioner in CR-2614-2023

ANIL KSHETARPAL, J (Oral)

1. By this common order, two revision petitions i.e CR-1010-2020 and CR-2614-2023 shall stand disposed of.

2. After having heard the learned counsel representing the parties in both the petitions, this Court is of the considered opinion that the decree-holder of the judgment and decree dated 30.08.1983, is



indulging in unnecessary litigation and has failed to take the appropriate steps.

3. In order to comprehend the issues involved in the present case, some relevant facts, in brief, are required to be noticed.

4. In CR-2614-2023 (Sh.Prem Kumar) the petitioner filed a suit for possession of 3/10th share, which was decreed on 30.08.1983. The correctness of the aforesaid judgment and decree was upheld by the Supreme Court on 29.07.1999. In compliance with the aforesaid decree, the symbolic possession was delivered to Sh.Prem Kumar (decree-holder). Subsequently, the execution petition was also disposed of as satisfied. However, the parties indulged in further proceedings. In CR-7315-2015 filed by Sh.Prem Kumar, the learned counsel representing the judgment debtor undertook to remove the debris (Malba). Pursuant thereto, the decree-holder filed an application for revival of the execution petition, which was allowed. After revival of the execution petition, the Executing Court appointed the Local Commissioner. The judgment debtor challenged the correctness of the order passed by the Executing Court reviving the execution petition as well as the appointment of Local Commissioner. Subsequently, the execution petition was dismissed on the ground that the decree-holder can only file a suit for partition.

5. Learned counsel representing the petitioner submits that the order passed by the Executing Court, reviving the petition, is without



jurisdiction because the execution petition was previously dismissed as satisfied.

6. Per contra, the learned counsel representing the respondent submits that the decree-holder has already deposited Rs.7200/- towards charges for removing the debris and hence, the judgment debtors are liable to remove the same.

7. This Court has considered the submissions made by the learned counsel representing the parties.

8. As already observed, the litigation is totally unnecessary. The decree-holder is indulging in all this litigation without any justifiable reason. He has a remedy to file a suit for partition because it is an urban property. However, for the last 25 years, he has not resorted to the aforesaid remedy. The total joint land is 4 kanals. The decree-holder is only entitled to 3/10th share, which would come to 1 kanal 4 marlas. If in the partition proceedings, the property, on which the debris is lying, falls to the share of decree-holder, he will have a right to use the same or get the debris removed.

9. With these observations, both the revision petitions are disposed of.

10. All the pending miscellaneous applications, if any, are also disposed of.

14.05.2024
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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No